

House Bill 597

By: Representatives Singleton of the 71st, Wade of the 9th, and Gilligan of the 24th

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 4 of Chapter 11 of Title 16 of the Official Code of Georgia Annotated,
2 relating to dangerous instrumentalities and practices, so as to provide for protections against
3 the infringements on the right to keep and bear arms; to provide for legislative findings and
4 intent; to provide for a definition; to provide for a cause of action; to provide for a short title;
5 to provide for related matters; to repeal conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 This Act shall be known and may be cited as the "Georgia Second Amendment Protection
9 Act."

10 **SECTION 2.**

11 Article 4 of Chapter 11 of Title 16 of the Official Code of Georgia Annotated, relating to
12 dangerous instrumentalities and practices, is amended by adding a new part to read as
13 follows:

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14 "Part 615 16-11-180.16 The General Assembly finds and declares that:17 (1) The General Assembly is firmly resolved to support and defend the Constitution of
18 the United States against all enemies, whether foreign or domestic, and is duty bound to
19 oppose every infraction of those foundational principles;20 (2) Acting through the Constitution of the United States, the people of the several states
21 created the federal government to be their agent in the exercise of a few defined powers,
22 while reserving for the state governments the power to legislate on matters concerning
23 the lives, liberties, and properties of citizens in the ordinary course of affairs;24 (3) The limitation of the federal government's power is affirmed under the 10th
25 Amendment to the Constitution of the United States, which defines the total scope of
26 federal power as being that which has been delegated by the people of the several states
27 to the federal government, and all power not delegated to the federal government in the
28 Constitution of the United States is reserved to the states respectively or to the people
29 themselves;30 (4) If the federal government assumes powers that the people did not grant it in the
31 Constitution of the United States, its acts are unauthoritative, void, and of no force;32 (5) The several states of the United States respect the proper role of the federal
33 government but reject the proposition that such respect requires unlimited submission.
34 If the government, created by a compact among the states, was the exclusive or final
35 judge of the extent of the powers granted to it by the states through the Constitution of
36 the United States, the federal government's discretion, and not the Constitution of the
37 United States, would necessarily become the measure of those powers. To the contrary,
38 as in all other cases of compacts among powers having no common judge, each party has
39 an equal right to judge for itself as to whether infractions of the compact have occurred,

40 as well as to determine the mode and measure of redress. Although the several states
41 have granted supremacy to laws and treaties made under the powers granted in the
42 Constitution of the United States, such supremacy does not extend to various federal
43 statutes, executive orders, administrative orders, court orders, rules, regulations, or other
44 actions which collect data or restrict or prohibit the manufacture, ownership, and use of
45 firearms, firearm accessories, or ammunition exclusively within the borders of this state;
46 such statutes, executive orders, administrative orders, court orders, rules, regulations, and
47 other actions exceed the powers granted to the federal government, except to the extent
48 that they are necessary and proper for governing and regulating the United States armed
49 forces or for organizing, arming, and disciplining militia forces actively employed in the
50 service of the United States armed forces;

51 (6) The people of the several states have given Congress the power "to regulate
52 commerce with foreign nations, and among the several states," but "regulating
53 commerce" does not include the power to limit citizens' right to keep and bear arms in
54 defense of their families, neighbors, persons, or property, or to dictate what sort of arms
55 and accessories law-abiding citizens may buy, sell, exchange, or otherwise possess within
56 the borders of this state;

57 (7) The people of the several states have also granted Congress the power "to lay and
58 collect taxes, duties, imports, and excises, to pay the debts, and provide for the common
59 defense and general welfare of the United States" and "to make all laws which shall be
60 necessary and proper for carrying into execution the powers vested by the Constitution
61 of the United States in the government of the United States, or in any department or
62 office thereof." These constitutional provisions merely identify the means by which the
63 federal government may execute its limited powers and shall not be construed to grant
64 unlimited power, because to do so would be to destroy the carefully constructed
65 equilibrium between the federal and state governments. Consequently, the General

66 Assembly rejects any claim that the taxing and spending powers of Congress may be used
67 to diminish in any way the right of the people to keep and bear arms;

68 (8) The people of this state have vested the General Assembly with the authority to
69 regulate the manufacture, possession, exchange, and use of firearms within the borders
70 of this state, subject only to the limits imposed by the Second Amendment to the
71 Constitution of the United States and Article I, Section I, Paragraph 8 of the Constitution
72 of Georgia; and

73 (9) The General Assembly strongly promotes responsible gun ownership, including
74 parental supervision of minors in the proper use, storage, and ownership of all firearms;
75 the prompt reporting of stolen firearms; and the proper enforcement of all state gun laws.
76 The General Assembly hereby condemns any unlawful transfer of firearms and the use
77 of any firearm in any criminal or unlawful activity.

78 16-11-181.

79 As used in this part, the term 'law-abiding citizen' means an individual who is not otherwise
80 precluded under state law from possessing a firearm and shall not be construed to include
81 anyone who is not legally present in the United States or the State of Georgia.

82 16-11-182.

83 The following federal acts, laws, executive orders, administrative orders, court orders,
84 rules, and regulations shall be considered infringements on the people's right to keep and
85 bear arms, as guaranteed by the Second Amendment to the Constitution of the United
86 States and Article I, Section I, Paragraph 8 of the Constitution of Georgia, within the
87 borders of this state:

88 (1) Any tax, levy, fee, or stamp imposed on firearms, firearm accessories, or ammunition
89 not common to all other goods and services and that might reasonably be expected to

90 create a chilling effect on the purchase or ownership of those items by law abiding
91 citizens;

92 (2) Any registering or tracking of firearms, firearm accessories, or ammunition that
93 might reasonably be expected to create a chilling effect on the purchase or ownership of
94 those items by law-abiding citizens;

95 (3) Any registering or tracking of the owners of firearms, firearm accessories, or
96 ammunition that might reasonably be expected to create a chilling effect on the purchase
97 or ownership of those items by law-abiding citizens;

98 (4) Any act forbidding the possession, ownership, or use or transfer of a firearm, firearm
99 accessory, or ammunition by law-abiding citizens; and

100 (5) Any act ordering the confiscation of firearms, firearm accessories, or ammunition
101 from law-abiding citizens.

102 16-11-183.

103 All federal acts, laws, executive orders, administrative orders, court orders, rules, and
104 regulations that infringe on the people's right to keep and bear arms, as guaranteed by the
105 Second Amendment to the Constitution of the United States and Article I, Section I,
106 Paragraph 8 of the Constitution of Georgia, shall be invalid in this state, shall not be
107 recognized by this state, shall be specifically rejected by this state, and shall be considered
108 null, void, and of no effect in this state.

109 16-11-184.

110 It shall be the duty of the courts and law enforcement agencies of this state to protect the
111 rights of law-abiding citizens to keep and bear arms within the borders of this state and to
112 protect these rights from the infringements provided for under Code Section 16-11-182.

113 16-11-185.

114 No person, including any public officer or employee of this state or any political
115 subdivision of this state, shall have the authority to enforce or attempt to enforce any
116 federal acts, laws, executive orders, administrative orders, court orders, rules, regulations,
117 statutes, or ordinances infringing on the right to keep and bear arms as described under
118 Code Section 16-11-180.

119 16-11-186.

120 (a) Any entity or person that knowingly violates the provisions of Code Section 16-11-185
121 or otherwise knowingly deprives a citizen of this state of the rights and privileges ensured
122 by the Second Amendment to the Constitution of the United States or Article I, Section I,
123 Paragraph 8 of the Constitution of Georgia, while acting under the color of any state or
124 federal law, shall be liable to the injured party in an action at law, suit in equity, or other
125 proper proceeding for redress.

126 (b) In such actions, the court may award the prevailing party, other than the State of
127 Georgia or any political subdivision of this state, reasonable attorney's fees and costs.

128 (c) Sovereign, official, or qualified immunity shall not be an affirmative defense in such
129 actions."

130 **SECTION 3.**

131 All laws and parts of laws in conflict with this Act are repealed.